

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-072 Rules for notification of partners at risk of human immunodeficiency virus (HIV) infection. (1) A local health officer or authorized representative shall:

(a) Within ~~((seven))~~ three working days of receipt of a report ~~((indicative))~~ of a previously unreported case of HIV infection, attempt to contact the principal health care provider to ~~((determine))~~:

(i) Seek input on the best means ~~((and the necessity))~~ of conducting a case investigation including partner notification ~~((case investigation))~~; and

(ii) If appropriate, request that the provider contact the HIV-infected person as required in subsection (2) of this section.

(b) Contact the HIV-infected person ~~((for the purpose of providing assistance in notifying))~~ to:

(i) Provide post-test counseling as described under WAC 246-100-209;

(ii) Discuss the need to notify sex or injection equipment-sharing partners, including spouses, that they may have been exposed to and infected with HIV and that they should seek ~~((HIV pretest counseling and))~~ HIV testing ~~((, unless:~~

~~((i) The principal health care provider recommends that the state or local health officer not meet with the HIV-infected individual for the purpose of notifying partners, including spouses; or~~

~~((ii) The local health officer determines a partner notification case investigation is not necessary;~~

~~((c) Provide assistance notifying partners in accordance with the "HIV Partner Counseling and Referral Services--Guidance"))~~; and

(iii) Offer assistance with partner notification as appropriate.

(c) Unless the health officer or designated representative determines partner notification is not needed or the HIV-infected person refuses assistance with partner notification, assist with notifying partners in accordance with the "Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection" as published by the Centers for Disease Control and Prevention, ((December 1998)) October 2008.

(2) If the local health officer ~~((decides))~~ or designated representative informs the principal health care provider that he or she intends to conduct ~~((the))~~ a partner notification case investigation, the principal health care provider ~~((:~~

~~((a) May provide recommendations to the state or local health officer on the best means of contacting the HIV-infected individual for the purpose of notifying sex or injection equipment-sharing~~

~~partners, including spouses, that partners may have been exposed to and infected with HIV and that partners should seek HIV pretest counseling and HIV testing; and~~

~~(b)) shall attempt to inform the HIV-infected person that the local health officer or authorized representative will contact the HIV-infected person for the purpose of providing assistance with the notification of partners.~~

~~(3) ((If the principal health care provider recommends that the state or local health officer not meet with the HIV-infected individual for the purpose of notifying partners, including spouses, the principal health care provider shall:~~

~~(a) Inform the HIV-infected individual of the necessity to notify sex and injection equipment-sharing partners, including spouses, that they have been exposed to and may be infected with HIV and should seek HIV testing; and~~

~~(b) Provide assistance notifying partners in accordance with the "HIV Partner Counseling and Referral Services--Guidance" as published by the Centers for Disease Control and Prevention, December 1998; and~~

~~(c) Inform the local health officer or an authorized representative of the identity of sex or injection equipment-sharing partners known to the provider when the HIV-infected individual either refuses or is unable to notify such partners and confirm notification to the health care provider; and~~

~~(d) Upon request of the state or local health officer, report the number of exposed partners, including spouses that have been contacted and offered HIV testing.~~

~~(4)) A health care provider shall not disclose the identity of an HIV-infected individual or the identity of sex and injection equipment-sharing partners, including spouses, at risk of HIV infection, except as authorized in RCW 70.24.105 or ((WAC 246-100-072)) in this section.~~

~~((5)) (4) Local health officers and authorized representatives shall:~~

~~(a) Use identifying information, ((provided)) according to this section, on HIV-infected individuals only ((for)) to:~~

~~(i) ((Contacting)) Contact the HIV-infected individual to provide post-test counseling and, as appropriate, referral to medical care, or to contact sex and injection equipment-sharing partners, including spouses; or~~

~~(ii) ((Carrying)) Carry out an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024; and~~

~~(b) Destroy documentation of referral information established under this subsection, containing identities and identifying information on the HIV-infected individual and at-risk partners of that individual, immediately after notifying partners or within three months of the date information was received, whichever occurs first unless such documentation is being used in an active investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health~~

pursuant to RCW 70.24.022 or 70.24.024.

~~((+6+))~~ (5) A health care provider may consult with the local health officer or an authorized representative about an HIV-infected individual and the need for notification of partners at any time.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-207 Human immunodeficiency virus (HIV) testing--Ordering--Laboratory screening--Interpretation--Reporting. (1)

~~((Any person))~~ Except for persons conducting seroprevalent studies under chapter 70.24 RCW, or ordering or prescribing an HIV test for another~~((, except for seroprevalent studies under chapter 70.24 RCW or provided))~~ individual under subsections ~~((+2+))~~ (4) and ~~((+3+))~~ (5) of this section or provided under WAC 246-100-208(1), any person ordering or prescribing an HIV test for another individual, shall:

(a) ~~((Provide a brief evaluation of both behavioral and clinical HIV risk factors; and~~

~~(b) Unless the person has been previously tested and declines receipt of information, explicitly provide verbal or written information that is culturally, linguistically, developmentally and, medically appropriate to the individual being tested regarding HIV including:~~

~~(i) The benefits of learning HIV status and the potential dangers of the disease; and~~

~~(ii) A description of ways in which HIV is transmitted and ways in which it can be prevented; and~~

~~(iii) The meaning of HIV test results and the importance of obtaining test results; and~~

~~(iv) As appropriate, the availability of anonymous HIV testing and the differences between anonymous testing and confidential testing; and~~

~~(c) Obtain or ensure explicit verbal or written informed consent of the individual to be tested prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW and document the consent of the individual being tested; and~~

~~(d) Recommend and offer or refer for pretest counseling described under WAC 246-100-209 to any person requesting pretest counseling and to any person determined to be at increased risk for HIV as defined by Federal Centers for Disease Control and Prevention published in *Revised Guidelines for HIV Counseling, Testing and Referral*, November 9, 2001. The individual's decision to refuse pretest counseling is not grounds for denying HIV testing; and~~

~~(e) Provide or refer for other appropriate prevention, support~~

~~or medical services, including Hepatitis services; and~~

~~(f) Provide or ensure successful completion of referral for post-test counseling described under WAC 246-100-209 if the HIV test is positive for or suggestive of HIV infection; and~~

~~(g) In the event that the individual tests positive, had a confidential test, and fails to return for post-test counseling,)) Obtain the informed consent of the individual, separately or as part of the consent for a battery of other routine tests provided that the individual is specifically informed in writing or verbally that a test for HIV is included; and~~

(b) Offer the individual an opportunity to ask questions and decline testing; and

(c) If the HIV test is positive for or suggestive of HIV infection, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209((+2)).

(2) The local and state health officer or authorized representative shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings."

(3) Health care providers may obtain a sample brochure about the September 2006 Centers for Disease Control and Prevention "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings" by contacting the department's HIV prevention program at P.O. Box 47840, Olympia, WA 98504.

(4) Any person authorized to order or prescribe an HIV test for another individual may offer anonymous HIV testing without restriction.

~~((+3))~~ (5) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations;

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer.

~~((+4))~~ (6) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

- (i) What an HIV test is;
- (ii) Behaviors placing a person at risk for HIV infection;
- (iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;
- (iv) The potential risks of HIV testing; and
- (v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) ~~((Requirements under subsection (4)(c) of this section.))~~ At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209~~((+2))~~ is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

~~((+5))~~ (7) Laboratories and other places where HIV testing is performed must demonstrate compliance with all of the requirements in the Medical test site rules, chapter 246-338 WAC.

~~((+6))~~ (8) The department laboratory quality assurance section shall accept substitutions for enzyme immunoassay (EIA) screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

~~((+7))~~ (9) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) The test or sequence of tests has been approved by the ~~((United States Food and Drug Administration ()))~~ FDA~~((+))~~ or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) Such information consists of relevant~~((, pertinent))~~ facts communicated in such a way that it will be readily understood by the recipient.

~~((8))~~ (10) Persons may inform a tested individual of the unconfirmed reactive results of an FDA-approved rapid HIV test provided the test result is interpreted as preliminarily positive for HIV antibodies, and the tested ~~((person))~~ individual is informed that:

(a) Further testing is necessary to confirm the reactive screening test result;

(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;

(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and

(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-208 Counseling standard--AIDS counseling. (1) Principal health care providers providing care to a pregnant woman who intends to continue the pregnancy and is not seeking care to terminate the pregnancy or as a result of a terminated pregnancy shall ~~((counsel or))~~:

(a) Provide or ensure the provision of AIDS counseling ~~((for each pregnant woman continuing the pregnancy. This subsection shall not apply when health care is sought in order to terminate a pregnancy or as a result of a terminated pregnancy. "AIDS counseling" for a pregnant woman means:~~

~~(a) Performing a risk screening that includes an assessment of sexual and drug use history as part of the intake process;~~

~~(b) Providing written or verbal information on HIV infection that at a minimum includes:~~

~~(i) All pregnant women are recommended to have an HIV test;~~

~~(ii) HIV is the cause of AIDS and how HIV is transmitted;~~

~~(iii) A woman may be at risk for HIV infection, and not know it;~~

~~(iv) The efficacy of treatments to reduce vertical transmission;~~

~~(v) The availability of anonymous testing, and why confidential testing is recommended for pregnant women;~~

~~(vi) The need to report HIV infection;~~

~~(vii) Public funds are available to assist eligible HIV-infected women receive medical care and other assistance; and~~

~~(viii) Women who decline testing will not be denied care for themselves or their infants)) as defined in WAC 246-100-011(2);~~

~~((c) Obtaining))~~ (b) Obtain the informed consent of the pregnant woman for confidential human immunodeficiency virus (HIV) testing, separately or as part of the consent for a battery of

other routine tests provided that the pregnant woman is specifically informed in writing or verbally that a test for HIV is included;

~~((d) Providing HIV testing unless the pregnant woman refuses to give consent;))~~

(c) Offer the pregnant woman an opportunity to ask questions and decline testing;

(d) Order or prescribe HIV testing if the pregnant woman consents;

(e) If the pregnant woman refuses ((a confidential test)) to consent, ((discussing and addressing)) discuss and address her reasons for refusal and document in the medical record ((that)) both her refusal and the provision of education on the benefits of HIV testing; and

(f) If ((the risk screening indicates, providing or referring for behavioral change counseling for women who:

(i) Have or recently have had a sexual partner(s) who is known to be HIV infected or is a man who has sex with another man or is an injection drug user;

(ii) Uses or recently have used injection drugs;

(iii) Have signs or symptoms of HIV seroconversion;

(iv) Currently have or recently have exchanged sex for drugs or money or had a sexually transmitted disease or had multiple sex partners; or

(v) Express a need for further, more intensive counseling; and

(g) Basing the behavioral change counseling on the standards defined in WAC 246-100-209 and the recommendations of the federal Centers for Disease Control and Prevention published in Revised Guidelines for HIV Counseling, Testing and Referral, and Revised Recommendations for HIV Screening of Pregnant Women, November 9, 2001; and

(h) Offering referrals and providing follow-up to other necessary medical, social and HIV prevention services)) an HIV test is positive for or suggestive of HIV infection, provide the follow-up and reporting as required by WAC 246-100-209.

(2) Health care providers may obtain a sample brochure addressing the elements of subsection (1) ~~((b))~~ of this section by contacting the department of health's HIV prevention program at P.O. Box 47840, Olympia, WA 98504-7840.

(3) Principal health care providers shall counsel or ensure AIDS counseling as defined in WAC 246-100-011(2) and offer and encourage HIV testing for each patient seeking treatment of a sexually transmitted disease.

(4) Drug treatment programs under chapter 70.96A RCW shall provide or ensure provision of AIDS counseling as defined in WAC 246-100-011(2) for each person in a drug treatment program.

~~((5) Health care providers, persons, and organizations providing AIDS counseling in subsections (3) and (4) of this section shall:~~

~~(a) Assess the behaviors of each individual counseled for risk of acquiring and transmitting human immunodeficiency virus (HIV);~~

~~(b) Maintain a nonjudgmental environment during counseling~~

which:

- ~~(i) Considers the individual's particular circumstances; and~~
- ~~(ii) Is culturally, linguistically, and developmentally appropriate to the individual being counseled.~~
- ~~(c) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;~~
- ~~(d) Offer or refer for HIV testing and provide or ensure provision of personalized risk reduction education to individuals who are determined to be at increased risk for HIV as defined by Federal Centers for Disease Control and Prevention published in Revised Guidelines for HIV Counseling, Testing and Referral, November 9, 2001.~~
- ~~(6) Persons and organizations providing AIDS counseling may provide additional or more comprehensive counseling than required in this section.))~~

AMENDATORY SECTION (Amending WSR 05-11-110, filed 5/18/05, effective 6/18/05)

WAC 246-100-209 Counseling standards--Human immunodeficiency virus (HIV) pretest counseling--HIV post-test counseling. ((1))

Health care providers and other persons providing pretest or post-test counseling shall assess the individual's risk of acquiring and transmitting human immunodeficiency virus (HIV) by evaluating information about the individual's possible risk-behaviors and unique circumstances, and as appropriate~~((7))~~:

~~((a))~~ (1) Base counseling on the recommendations of the Federal Centers for Disease Control and Prevention as published in the *Revised Guidelines for HIV Counseling, November 2001*; and

~~((b))~~ (2) Assist the individual to set a realistic behavior-change goal and establish strategies for reducing their risk of acquiring or transmitting HIV; and

~~((c))~~ (3) Provide appropriate risk reduction skills-building opportunities to support the behavior change goal; and

~~((d))~~ (4) Provide or refer for other appropriate prevention, support or medical services, including those services for other bloodborne pathogens~~((7))~~:

~~(2) Health care providers and other persons providing post-test counseling shall:~~

~~(a) For all individuals tested for HIV, offer at least one individual counseling session at the time HIV test results are disclosed consistent with the requirements in subsection (1) of this section; and~~

~~(b)) ; and~~

(5) If the individual being counseled tested positive for HIV infection:

~~((i))~~ (a) Provide or arrange for at least one individual in-person counseling session consistent with the requirements in

subsection (1) through (4) of this section; and

~~((+ii+))~~ (b) Unless testing was anonymous, inform the individual that the identity of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

~~((+iii+))~~ (c) Ensure compliance with the partner notification provisions contained in WAC 246-100-072, and inform the tested person of those requirements; and

~~((+iv+))~~ (d) Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and

~~((+v+))~~ (e) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate; and

~~((+vi+))~~ (f) Provide or refer for medical evaluation including services for other bloodborne pathogens, antiretroviral treatment, HIV prevention and other support services; and

~~((+vii+))~~ (g) Provide or refer for tuberculosis screening.